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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 293 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

J M CONTRACTOR

Appearance:

MR HARDIK C RAWAL for the Petitioner.

MS MALTI J JOSHI for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 04/10/2001

ORAL JUDGEMENT

The petitioner-Corporation has challenged the Award passed in Reference (LCV) No.1897 of 1990. By the aforesaid Award, dated 11th June, 1999, the Presiding Officer, Labour Court, Valsad, allowed the Reference partly and passed an order of reinstatement in favour of the concerned workman, with continuity of service without

back wages.

The respondent-workman was serving as a daily rated watchman in the S.T. Corporation. His services were terminated by the S.T. Corporation, which he has challenged by way of raising Industrial Dispute, which was, ultimately, referred to the Labour Court, Valsad for adjudication. It is not in dispute that before terminating the services of the petitioner, no departmental enquiry was initiated against him. It seems that the Vapi Depot Manager, by way of his confidential report, informed the Divisional Manager, Valsad on 22.5.1989 that at 6.00 O'Clock in the morning, there was a theft of two tyres and tyre tubes from the Vapi Depot and at that time, even though the respondent-workman was on duty, as a reliever Watchman, he was not vigilant enough to prevent the said theft. The Labour Court has come to the conclusion that before terminating the services of the petitioner on the aforesaid misconduct, no departmental enquiry was held against him nor his explanation was sought for. It is not in dispute that principles of natural justice were not complied with by the S.T. Corporation before terminating his services on the aforesaid misconduct. Considering the said fact, the Labour Court passed an order of reinstatement without back wages.

Mr.Raval for the petitioner has fairly conceded the fact that before terminating the services of the respondent, he was not subjected to any show cause notice and no hearing was given to him, and in view of the decision of the Division Bench of this Court in Gujarat State Road Transport Corporation v. Chandulal G. Rasadiya, 1993(1) GLR 442, even if a person is serving as a Badli workman or Rojamdard, if he is to be removed from service on any misconduct, principles of natural justice are required to be followed. The relevant observations made in paragraph 14 of the said judgment read as under :-

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14. In view of the aforesaid decisions, it would be difficult to uphold the contention raised by the learned Advocate for the petitioner that in these cases, the petitioner was not required to hold an elaborate inquiry for the misconduct of the respondent-Conductors. In both the petitions the Conductors' names are removed from the waiting list on the alleged ground

of misappropriation of bus ticket fare as it is alleged that at the time of checking the buses on the relevant dates the Conductors had not issued the tickets after recovering fare and on such other grounds. In both the cases the Conductors have denied the allegations made against them. In spite of this, the petitioner has not held any further inquiry. As both the Conductors have denied the allegations made against them, further inquiry ought to have been held and the department ought to have adduced evidence in support of the charges, and the delinquents ought to have been permitted to put relevant questions by way of cross-examination if they desired. They also ought to have been given further chance to lead evidence in support of their case. In our view, this would be the barest requirement of holding an inquiry in this type of grave misconduct. In the present cases Bus Conductors are not removed on account of unsuitability. If they are removed without casting any stigma, then in that case further inquiry is not necessary. In this view of the matter, it cannot be said that the order passed by the Labour Court calls for any interference.

... .."

In view of this, the Labour Court was right in setting aside the dismissal order on the ground that the same was passed without following the principles of natural justice. I, therefore, do not find any substance in the petition. The petition is, therefore, dismissed. Rule is discharged with no order as to costs.

4th October, 2001 (P.B. Majmudar, J.)

(apj)